In the Supreme Court of the United States

OCTOBER TERM, 1976

NO. 76-1639

HARRY J. RAMSEY,

Petitioner

versus

M/V MODOC and THE RIVER LINES, INC.,

Respondents

CHARLES J. PISANO,

Respondent

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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RELEVANT FACTS

Petitioner's "Statement of Relevant Facts" glosses over his own conduct and omits several very material facts. The factual background of the case is as follows:

The MODOC was a new tugboat which had been built for River Lines by a shipyard in the New Orleans area. River Lines engaged petitioner Ramsey in San Francisco to act as master and sent him and a crew of River Lines' regular employees to New Orleans to take delivery of the tug and bring it to San Francisco, where it was to be used in towing barges in San Francisco Bay and tributaries.

Upon arrival in New Orleans, petitioner insisted on ship's articles of employment being signed before a Coast Guard Shipping Commissioner. Under the statutes, discussed

hereinafter, articles are required only for foreign voyages, but may be signed for coasting voyages if the master or owner so requests.

The tug then sailed light, without a tow or cargo, for San Francisco. When the tug was off the west coast of Mexico, the petitioner says he "placed the chief mate under arrest" and thereafter the crew "deposed him" and handcuffed him to a fixture in the master's quarters. The facts are not quite as petitioner generalized them to be.

Petitioner's "placing the chief mate under arrest" consisted of hauling the mate out of bed around 6 A.M. at the point of a loaded gun. The mate was not then on watch and had not "disobeyed" any orders at or just prior to this event.

After routing the mate from his bed, petitioner forced him at gun point to proceed to a small unventilated storeroom and locked him in. In these tropical waters the heat and humidity in the storeroom created a very real danger of the mate's death by asphyxiation and/or extreme heat and thirst.

Petitioner then proceeded to the bridge and made threats to other crew members while waving his gun about. They managed to take the gun away from him and confined him to his quarters, after which they freed the mate and put into the nearest port, Acapulco. Confinement of petitioner was then relaxed and he was allowed to "escape." It was some time thereafter before any communication could or did occur between him and the tug owner.

A thorough investigation of the entire chain of events was

conducted both by the Coast Guard and the Federal Bureau of Investigation immediately on arrival of the MODOC in an American port. All crew members were cleared of any suspicion of mutiny, having acted in self-defense.

This suit was ultimately filed on behalf of Mr. Ramsey seeking personal injuries under the Jones Act and General Maritime Law in addition to claims for maintenance and cure, transportation, wages and penalty wages. Trial by jury in November of 1973 resulted in a verdict in favor of Captain Ramsey, finding the vessel unseaworthy and awarding $15,000 for personal injuries, $2,000 in wages and $379 for personal property belonging to Mr. Ramsey. Although the jury found that the failure to pay wages to Mr. Ramsey was arbitrary, the trial judge directed a verdict in favor of River Lines on the penalty wage issue stating that as master of the vessel, he was not entitled to recovery of penalty wages.

Plaintiff then moved for a judgment n.o.v. on the penalty wage issue and defendants moved for a new trial or judgment n.o.v. on the negligence and unseaworthiness issues. Judge Rubin granted River Lines' motion for the new trial and denied Captain Ramsey's motion on the penalty wage issue.

A new trial was held in November of 1974 at which time the jury found the following:

1. River Lines was not negligent;

2. The vessel was not unseaworthy;

3. Plaintiff was not entitled to maintenance and cure;

4. Defendant was not arbiturary for failing to pay maintenance and cure;

5. After Captain Ramsey was relieved as master of the vessel, he did not render any services to the vessel as a seaman that would entitle him to pay;

6. Captain Ramsey was discharged from the vessel on July 16, 1970;

7. Payment by River Lines was possible within four days and that failure to pay wages was arbitrary on their part but the arbitrariness of River Lines did not arise within the four day period following Captain Ramsey's discharge from the vessel.

The trial court entered judgment on the jury's verdict, but no appeal from that judgment was taken. The only record which was lodged in the Fifth Circuit was that of the first trial. After oral argument, the Fifth Circuit in a *per curiam* decision held:

> "In this appeal from the second trial, which rests on the District Court's having granted a motion for a new trial, after jury verdict for appellant, we affirm the District Court's grant of a new trial on the basis of the Court's opinion in 372 F. Supp. 1131."

This opinion, attached as Appendix A to the petition, was not published.

REASONS FOR DENYING WRITS

I.

PROPRIETY OF DISTRICT COURT'S GRANTING A TRIAL MUST BE PASSED ON PRIOR TO CONSIDERATION OF PENALTY WAGE ISSUE RAISED BY PETITIONER

Following the first trial, the District Court granted a new trial and at the second trial, the jury rendered a verdict by answering several special interrogatories pertaining to the penalty wage issue. Petitioner did not appeal from the verdict reached in the second trial and, in fact, the record of proceedings from the second trial was never lodged with the Appellate Court. While the District Court decided as a matter of law in both trials that a master was not entitled to penalty wages, the jury in the second trial decided that penalty wages were not due petitioner whether he was a master or a seaman, and no appeal was taken from this finding at the second trial.

On appeal to the Fifth Circuit Court of Appeals, petitioner attempted to have that court review both the issue of the propriety of the granting of a new trial and the issue of whether a master is entitled to penalty wages, but the Appeals Court properly refused to consider the penalty wage issue because it was not properly before that court and affirmed the District Court's grant of a new trial.

Interestingly, in this application for Writ of Certiorari, petitioner has abandoned his claim that the District Court abused its discretion in granting a new trial and focuses solely on the penalty wage issue. For the reasons stated,

consideration of the penalty wage issue herein is premature until and unless a determination is made on whether the District Court abused its discretion in granting the defendant's motion for a new trial. If the discretion was not abused, all other issues become moot.

The law pertaining to an Appellate Court's review of a Trial Judge's ruling on a motion for a new trial is clear. A motion for a new trial is directed to the sound discretion of the District Judge, and his decision will not be reviewed except when there is an abuse of discretion. *Wood v. Holiday Inns, Inc.*, 508 F. 2d 167 (5th Cir. 1975); *United Broadcasting Co., Inc. v. Armes*, 506 F. 2d 766 (5th Cir. 1975); *Houston Chronicle Publishing Co. v. Coastline Railroad Co.*, 473 F. 2d 357 (5th Cir. 1973); *The United States v. 1160.96 Acres of Land*, 432 F.2d 910 (5th Cir. 1970); *United States v. Bucon Construction Co.*, 430 F.2d 420 (5th Cir. 1970), and cases cited therein.

In the instant case, the District Court's reasons for granting the new trial were reported at 372 F.Supp. 1131, and the basis for that ruling was that:

1. The jury's verdict was so seriously in error that a new trial was necessary to prevent a miscarriage of justice;

2. The jury was charged improperly on the penalty wage issue.

An analysis of the Court's opinion will clearly demonstrate the District Judge's awareness of the sanctity of the jury's verdict, commenting as follows:

". . .The jury failed to give the testimony of these crew members (7 members of the crew of the M/V MODOC who testified either at trial or by deposition) the weight it deserved.

It should be noted, too, that all of the irrelevant evidence admitted on the issue of penalty wages, emotional and inflammatory as some of it was, may have warped the jury's consideration of the unseaworthiness issue. This possibility has not influenced the court's independent evaluation of the evidence on unseaworthiness; it may, however, provide some explanation for the jury's verdict.

. . . .

The power of a trial judge to grant a new trial originates in the common law; the Constitution specifically preserved it, and the Federal Rules of Civil Procedure recognized it. Nonetheless, it is not a power that any judge does or should exercise rightly. But in this case, in view of the court's firm conviction that the jury verdict in finding the vessel unseaworthy and the defendant negligent under the evidence presented to it resulted in a miscarriage of justice, the defendant's motion for a new trial as to these issues is granted."

372 F. Supp. at 1137. Judge Rubin's reasoning on the penalty wage issue was equally clear.

"The court's instructions to the jury on the penalty wage issue were thus both incomplete and incorrect. Even if the court incorrectly directed a verdict because of an erroneous reading of the

penalty wage statute, the jury's verdict could not support a judgment for penalty wages. The jury simply did not have an opportunity to pass upon the claim and all its elements because it was framed improperly. It may be, as the plaintiff argues, that there was some evidence of unreasonable and arbitrary failure to pay wages within the statutory period, perhaps even enough to support a jury verdict for the plaintiff on this issue; but it is certain that the jury never had an opportunity properly to deliberate and this court will neither attempt to divine what results this jury would have reached nor decide the issue on its own.

Even if the error in instructions had been corrected at the last minute, and the question correctly put to the jury, a new trial might still be required on this issue. The plaintiff presented a great deal of evidence about conversations and correspondence between the parties and their attorneys at times subsequent to the four day period; plaintiff's attorney examined Mrs. Ramsey at some length in a particularly emotional scene about her visit to River Lines' office in an attempt to get her husband's wages, a visit she had made long after the statutory period had run. Whatever the effect of this evidence on the other issues--and more remains to be said about that--and whatever the weight it might have been given by a properly instructed jury with respect to tolling the penalty award, this testimony, admitted without any limiting instruction, infected the jury's consideration of the penalty wage issue. Much if not all of it should have been either excluded or admitted only for a limited purpose,

since the only proper issues were (a) whether the defendant had reasonable grounds during the statutory period to refuse payment; and (b) if not, and if the penalty was due, whether it would run for the entire period of time from that time until paid."

372 F. Supp. 1134-1135.

Thus, it is clear that Judge Rubin had a reasonable and rational basis for his decision. Only after a careful review of all the evidence and a thorough study of his instructions to the jury did he decide that the defendants had been prejudiced in the trial of the matter. Because this prejudice resulted in a miscarriage of justice, Judge Rubin in his discretion granted the new trial. Clearly, this was not an abuse of discretion and the District Court's action was affirmed by the Appellate Court. For this reason, it is submitted that this Honorable Court should on this basis deny the Petition for Writ of Certiorari.

II.

PETITIONER HAS NO CAUSE OF ACTION FOR PENALTY WAGES UNDER 46 U.S.C.A. 596

Whatever the evidentiary facts may have been, it is conceded that petitioner was the master of the MODOC on her delivery trip from New Orleans to San Francisco. On those admitted basic facts, without having to decide any disputed factual issues as to exactly what occurred on the voyage or thereafter, it is clear as a matter of law that petitioner has no right or standing to claim penalty wages under 46 U.S.C.A. 596, for two reasons:

1. The vessel and voyage here concerned were such that any application of sec. 596 is precluded by 46 U.S.C.A. 544.

2. A master of a vessel has no right or claim under sec. 596 in any event.

These reasons are briefly discussed in the order above stated.

SECTION 544 OF TITLE 46, U.S.C.A. PRECLUDES THE APPLICATION OF SEC. 596

Section 544 of Title 46, U.S.C.A. (original 1958 edition and 1977 pocket parts) provides that:

> "None of the provisions of sections . . . 591 to 596 . . . shall apply to sail or steam vessels engaged in the coastwise trade, except the coastwise trade between the Atlantic and Pacific Coasts. . ."

Every reported case holds that the scope of sec. 596 is modified and restricted by the provisions of sec. 544, and that sec. 596 does not impliedly repeal sec. 544, which Congress has allowed to remain on the books to this date.

Gardner v. The Danzler, 281 F. 2nd 719 (4th Cir. 1960)

Kowalik v. General Marine Transport Corp., 411 F. Supp. 1325 (S.D.N.Y. 1976), citing *Gardner, Peart* and other decisions.

Peart v. Motor Vessel Bering Explorer, 373 F. Supp. 927 (D. Alaska 1974).

Kelley v. University of Hawaii, 252 F. Supp. 273 (D. Haw. 1966).

Watler v. M/V Sea Lane, 232 F. Supp. 387 (S.D. Fla. 1964).

Beattie v. American Trading & Production Corp., 174 R. Supp. 596 (S.D.N.Y. 1959). (Upholding sec. 544's exclusion of the application of sec. 596 to the coastwise trade except between the Atlantic and Pacific Coasts. In that case the vessel made a round trip between Philadelphia and a Texas port on the Gulf of Mexico).

The fact that articles were signed in New Orleans for this voyage does not make sec. 596 applicable or take the situation out of sec. 544.

Sec. 564 of Title 46, U.S.C.A., *requires* articles to be signed before a Shipping Commissioner for *foreign* voyages and voyages between Atlantic and Pacific Coast ports by vessels of 75 tons and upward. Sec. 563 *allows* articles to be signed for coastwise voyages *if* the owner *or master* so requests, but provides:

> "When a crew is shipped by such Coast Guard official for any American vessel in the coastwise trade. . .such seaman (sic) shall be discharged and receive their wages as provided by *the first clause* of section 596 of this Title. . ."

The "first clause" of sec. 596 reads:

> "The master or owner of any vessel making coasting voyages shall pay to every seaman his wages

> within two days after the termination of the agreement under which he was shipped, or the time such seaman is discharged, whichever first happens;"

Further clauses follow, separated by semicolons. The provision for penalty wages of two days' pay for each day during which payment is delayed without sufficient cause is contained in a separate sentence thereafter.

In *Beattie v. American Trading & Production Corp.* (supra), articles had been signed which were broad enough to allow a foreign voyage. Only voyages between Philadelphia and Texas having been made, sec. 544 was held to exclude the application of sec. 596, although articles had been signed.

This wording of sec. 563 is another recognition by Congress that sec. 544 precludes the application of sec. 596 to coasting voyages other than between the Atlantic and Pacific Coast. If sec. 596 applies to all coastwise or coasting trade vessels, Congress would not have thought it necessary in sec. 563 to incorporate by reference a portion of sec. 596. The reference carefully stops short of incorporating the penalty provision of sec. 596.

A voyage from a Gulf of Mexico port (New Orleans) to a Pacific Coast port (San Francisco) to deliver a newly constructed vessel to her buyer for use in San Francisco Bay and tributaries is not a voyage "in the coastwise trade between the Atlantic and Pacific Coasts" within the meaning of sec. 544. It was not a voyage in "trade" at all, and was not between the specified coasts.

A MASTER HAS NO CLAIM FOR PENALTY WAGES UNDER 46 U.S. CODE 596

Sec. 596 requires "the master or owner" to pay wages to every seaman within specified times, and its second sentence provides that "every master or owner" who fails, without sufficient cause, to pay such wages on time shall pay to the seaman a sum equal to two days pay for each day of delay in payment.

This section thus creates certain rights for "seamen" and imposes a corresponding duty or obligation on "master or owner." In *Forster v. Oro Navigation Co.*, (2 Cir. 1955), 228 F. 2nd 319, at 319-20, the court said:

> "46 U.S.C.A. 596 imposes the duty of payment on 'master or owner'. We think that, if the master fails to pay without sufficient cause, his neglect becomes that of the owner, so that either is liable."

In other words, sec. 596 places a *duty* on the master, along with the owner, in favor of seamen. It is obvious that protection is intended for seamen other than masters *against* owners and *masters*. It may well be entitled to a liberal interpretation in favor of its beneficiaries, but the master is not such a beneficiary; he is ordered to protect the rights of the beneficiaries, and he is ordered to pay wages or pay penalties.

As the court said in petitioner's cited case of *Ladzinski v. Sperling Steamship & Trading Corp.*, 300 F. Supp. 947 (S.D.N.Y. 1969),

> "The primary objective of § 596 is to prevent such coercion by deterring a shipowner *or master* from improperly making a deduction from a *seaman's* wages." (emphasis supplied).

300 F. Supp. at 954.

As Martin Norris says in his authoritative work,

> "The essential spirit and purpose of this statute are to financially punish *the master and owner* for neglectful failure to pay wages. . ."

M. Norris, *The Law of Seamen*, 460 (3rd Ed. 1970)

On its face, then sec. 596 imposes a duty on the master and creates rights in seamen, thus clearly differentiating between master and seamen. It does not create a right to penalty wages in favor of masters.

This plain and obvious meaning of sec. 596 has been recognized by the courts. Every decision on the precise issue of whether a master can claim penalty wages under that section has held that he has no such right or remedy.

The first court to decide this issue was a state court. *Brinkman v. Erie & St. Lawrence Corp.*, 1944 Am. Mar. Cas. 213, 182 Misc. 1045, 46 N.Y.S. 2nd 615 (1944). In a well reasonsed opinion the court reviewed the legislative history of sec. 596 and concluded that Congress did not intend to include "masters" with "seamen" in wage matters such as this one, or to give masters a right to penalty wages.

Brinkman is cited and followed in *Owen v. U.S.* 1945

Am. Mar. Cas. 595 (S.D.N.Y. 1945). The same result was reached, on the authority and reasoning of those two cases, in *Frezados v. M/V San Bernardino Strait*, 1968 Am. Mar. Cas. 159 (M.D. Fla. 1967). In *Kennerson v. Jane R., Inc.*, 274 Supp. 28 (S.D. Tex. 1967), the court, without citing authorities, decided that a master could not claim penalty wages.

In The *Law of Seamen* by Martin J. Norris, the author states:

> "Section 596 places the *master* in *one* position and the *seaman* in *another*. Its effect is to protect the seaman from improper actions by the master. Generally speaking, the master because of his position, his ability to obtain funds and his possession of funds intended for payment of wages and purchase of supplies, is not regarded as requiring that measure of wage protection encompassed by the double wage penalty.
>
> "Recent statutory amendments have given the master wage remedies not previously enjoyed by him, i.e., wage lien and relief from attachments. However, this liberal legislation did *not* include 46 USC §596. *As previously, the master is not entitled to the double wage penalty.*" (emphasis supplied)

1 M. Norris, *The Law of Seamen*, 478 (3rd Ed. 1970).

In 1B *Benedict on Admiralty*, 5-26 (7th Ed., revised), appears the statement, MMMasters are not entitled to a double wage penalty under § 596", citing *Brinkman* and

Kennerson (supra) and Judge Rubin's decision in this case.

Petitioner's argument rests on the general definitions in 46 U.S.C.A. 713. While "seaman" is broadly defined therein, the first portion of that section defines "master" as the person having command of a vessel. Thus even in this section Congress distinguished between "master and seamen."

This distinction between master and seamen has been universally recognized in various wage situations. For example, sec. 600 of Title 46 U.S. Code, invalidated agreements by seamen which would forfeit their lien on the ship or deprive them of any other remedy for wages. Sec. 601 prohibited assignments of seamen's wages and levy of attachment or execution thereon. These sections were universally held not to apply to masters.

In *Blackton v. Gordon*, 303 U.S. 91, (1937), the Supreme Court held that sec. 713 makes a clear distinction between masters and seamen in respect to wages under the wage provisions of Title 46, hence, sec. 601, prohibiting garnishment and execution upon *seamen's* wages, did not prohibit such action against a *master's* wages. Referring to the Act of June 7, 1872, which is the source of the various wage provisions in Title 46, the Supreme Court said:

> "Scrutiny of the act as a whole leads to the view that *in all matters affecting wages seamen were treated as a class which excluded masters;* and this conclusion is required by § 65, [5] which is in part: 'That to avoid doubt in the construction of this act, every person having the command of any ship belonging to any citizen of the United States shall, within the meaning and for the purposes of

> this act, be deemed and taken to be the 'master' of such ship; and that every person (apprentices excepted) who shall be employed or engaged to serve in any capacity on board the same shall be deemed and taken to be a 'seaman' within the meaning and for the purposes of this act; . . .' "
> [5] 17 Stat. at Large 277, Chap. 322, 46 U.S.C.A. 713.

303 U.S. at 92-3; (emphasis added).

Blackton recognized that under other separate statutes, such as the Jones Act (46 U.S.C.A. 688), a master has been held to be entitled to a seaman's remedy for injuries, but holds that such is not the correct interpretation of the wage statutes.

Under maritime case law a seaman had a lien on the ship for wages, but the master did not.

In 1968 Congress amended the statutes to grant additional wage rights to masters. It did not do so by amending sec. 173 or sec. 596, or by enacting a provision that a master shall be classed as a seaman or treated as a seaman under all statutes relating to wages. Instead, it limited its action to specific areas, as follows:

It amended sec. 600 to read that no master *or* seaman may forfeit his lien on the ship or be otherwise deprived of any remedy for wages. It amended sec. 601 to prohibit assignments, attachments and execution against wages of masters *or* seamen. It enacted a new sec.,606, to grant the master a lien for his wages. It continued to show an intent not to have "master" integrated with "seaman" for all purposes by enacting another new section, 607, which provides

that "Sections 603 and 604 of this title shall not apply in any proceeding brought by a master for the enforcement of the lien granted by sec. 606 of this title."

Sections 603 and 604 provide that when a seaman's wages are not paid in ten days from due date, or in case of a dispute as to wages, a judge may summon the master before him to show cause and if no excuse is shown, may order the vessel to be attached by admiralty process and it shall be incumbent on the master to produce the contract and the log book, if required.

In 1968, when Congress amended and enacted as just set forth, all four previous court decisions on the effect of sec. 596 had been that a master has no rights thereunder to penalty wages. Presumably the 1968 legislation was introduced and enacted for the purpose of adding to a master's wage rights and to put him on a par with seamen in at least some wage situations.

Had Congress intended to allow penalty wages to masters, it could easily have amended sec. 596 to provide therefor in clear language. Or, if Congress had intended to abolish all distinctions between master and seamen for wage purposes, it could easily have enacted a new section providing, "In all cases arising under the provisions of this title relating to wages of seamen a master shall have all of the rights and remedies which are granted to seamen in regard to wages."

Or, Congress could have said, "The provisions of sections 596, 600 and 601 of this title shall apply to a master's claim for wages."

Instead, Congress legislated solely with regard to the mas-

ter's lien for wages and his freedom from attachment and execution, saying nothing about sec. 596 or sec. 713. As Judge Rubin said in his opinion rendered in this case:

> "The court has examined the legislative history of this amendment and particularly Senate Report No. 1079, April 5, 1968 (To accompany H.R. 13301); it seems principally to reflect a concern for the position of the master's wage claim in bankruptcy rather than a broad desire to "equalize" masters' and seamen's wage remedies. Moreover, what Congress chose *not* to do in expanding the wage protection scheme of Title 46 to include masters is as significant as what it chose *to* do. Congress was aware of modern conditions and the changed role of a master when it made these revisions, yet it did not extend the penalty wage remedy to masters. In these circumstances, its silence must speak eloquently to this court." (emphasis by the Court).

372 F. Supp. at 1133

As Mr. Norris has said:

> "Recent statutory amendments have given the master wage remedies not previously enjoyed by him, i.e., wage lien and relief from attachments. However, this liberal legislation did not include 46 U.S.C. 596. As previously, the master is not entitled to the double wage penalty."

1 M. Norris, *The Law of Seamen*, 478 (3rd Ed. 1970)

CONCLUSION

Before reaching the penalty wage issue, this Honorable Court must pass on the propriety of the District Court's granting of a new trial. The record is replete with irrefutable evidence that the District Court had a reasonable and rational basis for his decision and did not abuse his discretion in granting the new trial. Since no appeal was taken from the second trial, the other issue is moot.

Further, Judge Rubin's opinion correctly follows the existing law and his ruling is supported by the authorities he cites, viz., sec. 596 does not give a master any right or claim to penalty wages for delay in payment of wages.

Since he held that masters have no rights under sec. 596, Judge Rubin did not need to reach, and therefore did not discuss, the questions whether sec. 596 could have any application to this vessel and this voyage. As our previous discussion shows, sec. 544 of the same Title 46 of the Code precludes the application of sec. 596 to the circumstances of this voyage even if an ordinary seaman had brought suit. This is an entirely separate legal proposition which also supports the result achieved by Judge Rubin.

We have not thought it necessary to discuss petitioner's cited authorities on the broad definition of "seamen" of the need for protecting them, or the fact that a master's position is, as a practical matter, different in modern times from what it was 100 years ago.

These considerations are properly addressed to the Congress, in an effort to obtain additional statutory relief for masters. They have no bearing on the interpretation of sections 544, 596 and 713, all of which were allowed to remain on the books when Congress undertook in 1968 to grant certain specific rights to masters.

We are concerned here solely with the construction and application of sections 544 and 596, which are perfectly clear. We have cited cases which unanimously and uniformly hold that:

a. Sec. 544 precludes the application of sec. 596 in this case, and

b. Sec. 596 gives no rights to a master.

None of the petitioner's cases holds to the contrary on either of those issues and we know of no contrary authority. A discussion of petitioner's authorities is therefore not needed, since they are not in point.

That the Courts below were correct and that the petition for certiorari should be denied is

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that three copies of the foregoing Brief in Opposition to Petition for Writ of Certiorari has been served on petitioner Harry J. Ramsey, 2201 Magazine Street, New Orleans, Louisiana 70130, this 29th day of June, 1977.

ROBERT A. VOSBEIN